

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MACEY E. TURLEY,
CDCR #BF-8128

Case No.: 3:22-cv-1718-WQH-KSC

Plaintiff,

vs.

LOPEZ, Correctional Officer; GARCIA,
Correctional Officer; COYLE, Correctional
Officer; ROCHA, Correctional Officer,

Defendants.

ORDER

HAYES, Judge:

On October 31, 2022, Plaintiff Macey E. Turley, a state inmate currently incarcerated at California State Prison, Corcoran and proceeding pro se, filed a Complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1.)

All parties instituting any civil action, suit, or proceeding other than an application for writ of habeas corpus in a district court of the United States must pay a filing fee of

1 \$402. *See* 28 U.S.C. § 1914(a).¹ An action may proceed despite a plaintiff's failure to
 2 prepay the entire fee only if he is granted leave to proceed in forma pauperis ("IFP")
 3 pursuant to 28 U.S.C. § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir.
 4 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). However, a plaintiff who
 5 is a prisoner remains obligated to pay the entire filing fee in "increments," *see Williams v.*
 6 *Paramo*, 775 F.3d 1182, 1185 (9th Cir. 2015), regardless of whether the case is ultimately
 7 dismissed, even if the plaintiff is granted IFP status. See 28 U.S.C. §§ 1915(b)(1) and (2);
 8 *Taylor v. Delatoore*, 281 F.3d 844, 847 (9th Cir. 2002).

9 Plaintiff has not prepaid the \$402 civil filing fee required by 28 U.S.C. § 1914(a)
 10 and has not filed a motion to proceed IFP pursuant to 28 U.S.C. § 1915(a). Therefore, his
 11 case cannot yet proceed. *See* 28 U.S.C. § 1914(a); *Andrews*, 493 F.3d at 1051.

12 IT IS HEREBY ORDERED that this action is dismissed without prejudice for
 13 Plaintiff's failure to pay the \$402 civil filing and administrative fee or submit a motion to
 14 proceed IFP pursuant to 28 U.S.C. §§ 1914(a) and 1915(a). The Court grants Plaintiff
 15 **thirty (30) days** leave from the date this Order is filed to: (a) prepay the entire \$402 civil
 16 filing and administrative fee in full; or (b) complete and file a motion to proceed IFP,
 17 including a certified copy of Plaintiff's trust account statement for the 6-month period
 18 preceding the filing of his Complaint. *See* 28 U.S.C. § 1915(a)(2); S.D. Cal. CivLR 3.2(b).

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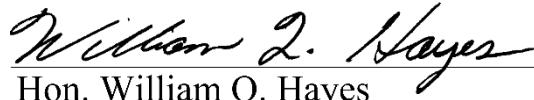
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26 ¹ In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of \$52. *See*
 27 28 U.S.C. § 1914(a); Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, § 14 (eff.
 28 Dec. 1, 2020). The additional \$52 administrative fee does not apply to persons granted leave to proceed
 IFP. *See id.*

1 IT IS FURTHER ORDERED that the Clerk of the Court shall provide Plaintiff with
2 this Court's approved form "Motion and Declaration in Support of Motion to Proceed *In*
3 *Forma Pauperis*." If Plaintiff fails to either prepay the \$402 civil filing fee or complete and
4 submit the enclosed motion to proceed IFP within thirty days, this action will remain
5 dismissed without prejudice based on Plaintiff's failure to satisfy the fee requirements of
6 28 U.S.C. § 1914(a) and without further Order of the Court.a

7 Dated: November 30, 2022


8 Hon. William Q. Hayes
9 United States District Court

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